Supreme Court, U.S.
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PASC No. 188 MAL 2005

In the

Supreme Court of the United States

Haiying Xi, Petitioner

v.

Bryn Mawr College et al, Respondents

On Petition For Writ of Certiorari
To The Supreme Court of Pennsylvania

PETITION FOR WRIT OF CERTIORARI

Haiying Xi
Petitioner
213 S. 45th St
Philadelphia, PA 19104
215-222-5463

QUESTIONS PRESENTED

A. Whether Regents of the University of Michigan v. Ewing 474 U.S. 214, 106 S. Ct. 507 (1985) and the doctrine of academic freedom- a special concern to the First Amendment of the Constitution prohibit a college student from knowing of his teacher's critiques on his works and from requesting his teachers to clarify their comments on his works when their comments conflict with the textbooks and their own previous lectures after the teachers assigned a grade; especially when the school policy regulates that a student has the above rights ?

B. Under Regents of the University of Michigan v. Ewing 474 U.S. 214, 106 S. Ct. 507 (1985), whether college faculty members failed to exercise their professional judgment when they breached their own written policies to prohibit a student from reviewing a teacher's critiques on the final paper after assigning a low grade; to refuse to clarify their comments on the student's tests but to lie to the college authority that they did while their comments apparently conflicted with the textbooks; to assert that two faculty members had fully clarified their comments with the student without acquiring any clue regarding when, where, how such clarifications took place, what questions they had clarified and what their clarifications were; and finally to refuse a student's request to confront with two deceptive faculty members through a contest monitored by the Committee of the Program?

C. Under Regents of the University of Michigan v. Ewing 474 U.S. 214, 106 S. Ct. 507 (1985) and the doctrine of academic freedom, a special concern to the First Amendment of the Constitution, whether a court has to second guess the following facts: (1) should a college student have the right to review his teacher's critiques on his final paper after the teacher assigned a grade; (2) should a college student have the right to ask his teacher to clarify the critiques on his works when the teacher's critiques conflict with the textbooks; (3)if the event of the teacher's clarification really took place; (4) should the student have the right to an appeal when the teachers either prohibited the student from reviewing her critiques or lied to the College authority for the clarification that they never provided; and (5) if the college breached its own policies when a student was denied of the above rights but the above rights are clearly written in the college's policy books and are admitted by the Dean and the President of the College?

D. Under Regents of the University of Michigan v. Ewing 474 U.S. 214, 106 S. Ct. 507 (1985) and the doctrine of academic freedom, a special concern to the First Amendment of the Constitution whether or not a court may trench a college's academic freedom if the court makes an inquiry into the above facts.

LIST OF PARTIES

[ ] All parties appear in the caption of the case on the cover page.

[X] All parties do not appear in the caption of the case on the cover page. A list of all parties to the proceeding in the court whose judgment is the subject of this petition is as follows:

- Julia H. Littell, faculty member
- Jim Martin, faculty member
- Carolyn Needleman, faculty member
- The Committee of the Doctoral Program
- Ruth W. Mayden, Dean of the Graduate School of Social Work and Social Research
- Nancy Vickers, President of Bryn Mawr College

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OPINIONS BELOW

The opinion of the highest state court to review the merits appears at Appendix E to the petition and is unpublished. The opinion of the superior court of Pennsylvania Eastern District appears at Appendix A to the petition and is unpublished. The opinion of the court of common pleas of Montgomery county PA appears at Appendix D to the petition and is unpublished.

JURISDICTION

The date on which the highest state court decided my case was August 24, 2005. A copy of that decision appears at Appendix E. The jurisdiction of this Court is invoked under 28 U.S. C. 1257 (a)

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

The First Amendment of the Constitution of the United States of America, "Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press, or the right of the people peaceably to assemble, and to petition the Government for a redress of grievance."

STATEMENT OF THE CASE

A. Petitioner asked Respondents to return a final paper and to clarify their comments with Petitioner

Petitioner was a graduate student of the School of Social Work and Social Research, Bryn Mawr

College from September 1999 to May 2001. Petitioner's academic performance was rated as above average in the past three years until Petitioner was involved in a dispute with the members of faculty, especially with Ms. Littell over the issue with ideological implication. In May 2001, two faculty members Mr. Martin and Ms. Littell failed Petitioner's test and term papers. According to their short comments on Petitioner's test/papers, they failed Petitioner's tests/papers because of Petitioner's "apparent misunderstanding or confusion about the core concepts" of the learning subjects explained in the textbooks. (Mr. Martin's comments) A third faculty member, Ms. Needleman assigned Petitioner's final paper a very low grade. The low grade also resulted in Petitioner's disqualification to continue the program. However, Ms. Needleman refused to return the paper with her critiques for Petitioner to review.

In order to find the mistakes, Petitioner reviewed the textbooks and Mr. Martin and Ms. Littell's previous lectures along with their comments on Petitioner's test/papers. Petitioner found that some of their comments apparently conflicted with the basic academic concepts explained by the textbooks and others were against their previous instructions. (*Exhibit 1B attachment, 2A, 2B*) The followings are some examples.

1. Petitioner asked Mr. Martin to clarify his comments

Respondent Martin taught program evaluation. In the textbook used by Mr. Martin for this lecture, the logic of program evaluation is explained as below:

"The underlying logic of evaluation design for outcomes studies is twofold (a) to compare participants before they receive the program with their

situation afterward in order to see if they have made gains on key outcomes and (b) to compare program participants with an equivalent group of people who did not receive the program to find whether participants' gains exceed those made by non-participants." {*Evaluation, Weiss, (1998) page 193*}

According to Mr. Martin's lecture, Petitioner reviewed an evaluation design from the resource recommended by Mr. Martin. Petitioner found that this evaluation design did not establish previous data for outcomes and did not have an equivalent group to compare. Petitioner concluded that a conclusion could not be drawn from that evaluation design. Against his previous lecture, Mr. Martin failed Petitioner's paper and held that Petitioner misunderstood the basic logic of program evaluation because to him "these outcomes seem pretty clear". (*Exhibit 1-B attachment*)

After reviewing Mr. Martin's comments, Petitioner e-mailed him a letter and asked him, "When you say that outcomes seem pretty clear, yo mean that the outcomes caused by the program are clear? If there is a difference or no difference in the outcomes of job status between the ex-offender group and the non-offender group, what is your conclusion respectively? ...under this case, how do you determine the program has worked well for non-offenders based on the information we have? Do we know of the employment outcome for non-offenders prior to the program or we do not need to know of it before we make such a claim? (*Exhibit 1-B, attachment, page 2*)

Petitioner asked Mr. Martin to clarify his comments since his comments are in conflict not only with the textbook but also with his previous lecture.

2. Petitioner asked Ms. Martin to clarify her comments with Petitioner